



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2013-0436; EPA-R05-OAR-2014-0663; FRL-9926-26-Region-5]**

**Approval and Promulgation of Air Quality Implementation Plans;**

**Illinois; Midwest Generation Variances**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve into the Illinois regional haze State Implementation Plan (SIP) variances affecting the following Midwest Generation, LLC facilities: Crawford Generating Station (Cook County), Joliet Generating Station (Will County), Powerton Generating Station (Tazewell County), Waukegan Generating Station (Lake County), and Will County Generating Station (Will County). The Illinois Environmental Protection Agency (IEPA) submitted these variances to EPA for approval on May 16, 2013, and August 18, 2014.

**DATES:** Comments must be received on or before **[insert date 30 days after publication in the FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket ID Nos. EPA-R05-OAR-2013-0436 and EPA-R05-OAR-2014-0663, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: aburano.douglas@epa.gov.
3. Fax: (312) 408-2279.
4. Mail: Doug Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Doug Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID Nos.

EPA-R05-OAR-2013-0436 and EPA-R05-OAR-2014-0663. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the SUPPLEMENTARY INFORMATION section of this document.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly

available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Kathleen D'Agostino, Environmental Engineer, at (312) 886-1767 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767, [dagostino.kathleen@epa.gov](mailto:dagostino.kathleen@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Should I Consider as I Prepare My Comments for EPA?
- II. What Is the Background for This Action?
- III. What Is EPA's Analysis of the Variances for Midwest Generation?
- IV. What Action Is EPA Taking?
- V. Incorporation by Reference.
- VII. Statutory and Executive Order Reviews.

**I. What Should I Consider as I Prepare My Comments for EPA?**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
2. Follow directions - EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

## **II. What Is the Background for This Action?**

Regional haze is a visibility impairment that is caused by the cumulative emissions of fine particles (PM<sub>2.5</sub>) (e.g., sulfates, nitrates, organic carbon, elemental carbon and dust)

and their precursors (sulfur dioxide ( $\text{SO}_2$ ), nitrogen oxides ( $\text{NO}_x$ ), and in some cases ammonia and volatile organic compounds) from numerous sources over a wide geographic area. Fine particulate precursors react in the atmosphere to form  $\text{PM}_{2.5}$ . Aerosol  $\text{PM}_{2.5}$  reduces the clarity and distance one can see by scattering and absorbing light.

The visibility protection program under sections 169A, 169B, and 110(a)(2)(J) of the Clean Air Act (CAA) is designed to protect visibility in national parks and wilderness areas (Class I areas). On December 2, 1980, EPA promulgated regulations, known as "reasonably attributable visibility impairment (RAVI)," to address visibility impairment in Class I areas that is reasonably attributable to a single source or small group of sources. On July 1, 1999, EPA promulgated the Regional Haze Rule which revised existing visibility regulations to incorporate provisions addressing regional haze impairment. EPA's Regional Haze Rule, as codified in Title 40 Code of Federal Regulations part 51.308 (40 CFR 51.308), requires states to submit regional haze SIPs. Among other things, the regional haze SIPs must include provisions requiring certain sources to install and operate best available retrofit technology (BART).

At 40 CFR 51.308(e)(2), the Regional Haze Rule allows states to meet BART requirements by mandating alternative measures in lieu of mandating source-specific BART, so long as the

alternative measures provide better visibility protection. Given the regional nature of visibility impairment, an alternative that results in lower emissions of SO<sub>2</sub> and NO<sub>x</sub> will generally provide better visibility protection. Thus, in the absence of a difference in the spatial distribution of emissions, a modeling analysis is generally not necessary to be able to conclude that an alternative strategy with lower SO<sub>2</sub> and NO<sub>x</sub> emissions provides better visibility protection.

On June 24, 2011, Illinois submitted a plan to address the requirements of the Regional Haze Rule, as codified at 40 CFR 51.308. EPA approved Illinois' regional haze SIP on July 6, 2012 (77 FR 39943). In its approval, EPA determined that the emission reductions from sources included in the Illinois plan are significantly greater than even conservative definitions of BART applied to BART subject units (77 FR 39945). EPA also addressed whether the Illinois plan, achieving greater emission reductions overall than the application of BART on BART-subject units, can also be expected to achieve greater visibility protection than application of BART on BART-subject units. Given that, in general, the Illinois power plants are substantial distances from any Class I area, and given that the averaging in Illinois' plan is only authorized within the somewhat limited region within which each utility's plants are located, EPA determined that a reallocation of emission reductions from one plant to another is

unlikely to change the impact of those emission reductions significantly. Consequently, EPA concluded that the significantly greater emission reductions that Illinois required in its regional haze SIP will yield greater progress toward visibility protection as compared to the benefits of a conservative estimate of BART.

Among the rules approved in this action to meet BART requirements are Illinois Administrative Code rules: 35 Ill. Adm. Code 225.292: Applicability of the Combined Pollutant Standard; 35 Ill. Adm. Code 225.295 Combined Pollutant Standard: Emissions Standards for NO<sub>x</sub> and SO<sub>2</sub>; 35 Ill. Adm. Code 225.296 Combined Pollutant Standard: Control Technology Requirements for NO<sub>x</sub>, SO<sub>2</sub>, and PM emissions (except for paragraph 225.296(d)); and 35 Ill. Adm. Code 225 Appendix A.

Appendix A identifies the Midwest Generation Electric Generating Units (EGUs) specified for purposes of the combined pollutant standard (CPS). Section 225.292 provides that the owner or operator of specified EGUs in the CPS located at Fisk, Crawford, Joliet, Powerton, Waukegan, and Will County power plants may elect for all of those EGUs as a group to demonstrate compliance pursuant to the CPS. Section 225.295(b) establishes CPS group average annual SO<sub>2</sub> emissions rates beginning in calendar year 2013 and continuing in each calendar year thereafter. Section 225.296(a)(1) requires Midwest Generation to



install and have operational a flue gas desulfurization (FGD) system on Unit 7 of the Waukegan Generation Station or shut down the unit on or before December 31, 2013. Section 225.296(c) (1) requires that Midwest Generation replace the hot-side electrostatic precipitator (ESP) on Unit 7 at the Waukegan Generation Station with a cold-side ESP, install an appropriately designed fabric filter, or permanently shut down the unit on or before December 31, 2013. Section 225.296(a) (2) requires Midwest Generation to install and have operational a FGD system on Unit 8 of the Waukegan Generation Station or shut down the unit by December 31, 2014.

The Illinois Pollution Control Board (IPCB) granted Midwest Generation variances to Section 225.296(a) (1) and 225.296(c) (1) on August 23, 2012 and to Section 225.295(b) and Section 225.296(a) (2) on April 4, 2013. IEPA submitted these variances as revisions to the Illinois regional haze SIP on May 16, 2013, and August 18, 2014.

### **III. What Is EPA's Analysis of the Variances for Midwest Generation?**

The variances granted by the IPCB and submitted by IEPA for approval change the requirements for Midwest Generation under the regional haze SIP as follows:

1. The IPCB granted Midwest Generation a variance from the average annual SO<sub>2</sub> emission rates of 0.28 pounds per

- million Btu (lb/mmBtu) in 2015 and 0.195 lb/mmBtu in 2016 in Section 225.295(b) subject to numerous conditions including, but not limited to, the following condition: Midwest Generation CPS group must comply with a system-wide average annual SO<sub>2</sub> emission rate of 0.38 lb/mmBtu from January 1, 2015 through December 31, 2016. The CPS group continues to be subject to the 2017, 2018, and 2019 system-wide average annual SO<sub>2</sub> emission rates of 0.15 lb/mmBtu, 0.13 lb/mmBtu, and 0.11 lb/mmBtu, respectively, set forth in Section 225.295(b).
2. The IPCB granted Midwest Generation a variance from the December 31, 2013, deadline for installation and operation of control equipment on Unit 7 of the Waukegan Generation Station as required by Section 225.296(a)(1) and (c)(1) subject to, among other things, the following condition: Midwest Generation must either install the required pollution controls or permanently shut down Unit 7 at the Waukegan Generating Station on or before December 31, 2014.
  3. The IPCB granted Midwest Generation a variance from the December 31, 2014 deadline for installation and operation of FGD equipment on Unit 8 at the Waukegan Generating Station as required by Section 225.296(a)(2) subject to, among other things, the following condition: Midwest

Generation must install the required pollution controls or permanently shut down Unit 8 at the Waukegan Generating Station by May 31, 2015. Midwest Generation is not allowed to operate Waukegan Unit 8 from January 1, 2015, until completion of the installation of FGD equipment.

4. In addition to the conditions described above, the variances granted by the IPCB are subject to a number of other conditions including, but not limited to, the following conditions:
  - a. Midwest Generation must shut down the coal-fired unit at Fisk Generation Station on or before December 31, 2012.
  - b. Midwest Generation must cease operation of the coal-fired units at the Crawford Generating Station by April 4, 2013, and shut down the units on or before December 31, 2014.
  - c. Midwest Generation must install and have operational FGD equipment and related ESP upgrades at Powerton Unit 6 by December 31, 2014.
  - d. Midwest Generation must limit annual system-wide mass emissions of SO<sub>2</sub> to no more than 57,000 tons in 2013, 54,000 tons in 2014, 39,000 tons in 2015, and 37,000 tons in 2016.

Midwest Generation ceased operation of the coal-fired boiler at Fisk on August 30, 2012, four months earlier than was required by the variance. Midwest Generation ceased operation at Crawford on August 28, 2012, seven months earlier than was required by the variance.

In evaluating the variances submitted by Illinois, EPA assessed the effect the variances would have on the emissions reductions expected under the CPS as currently approved into the regional haze SIP. Under the conditions of the currently approved regional haze SIP, the Midwest Generation CPS group would be expected to emit 190,181 tons of SO<sub>2</sub> for the 2013-2016 time period. Under the variances, the Midwest Generation CPU group would be expected to emit 185,599 tons of SO<sub>2</sub> over that same time period; 4,582 tons fewer than would be expected under the current SIP. Further, because Midwest Generation ceased operation at the Fisk and Crawford Generating stations in August of 2012, there were 1,983 tons of SO<sub>2</sub> emissions reductions (734 tons at Fisk and 1,249 tons at Crawford) realized in 2012 that were not required by the SIP and an additional 8,563 tons of SO<sub>2</sub> emissions reductions from Crawford beyond what was required in the SIP for the 2017-2018 time period. Over the entire 2012-2018 time period it is estimated that the variances result in 15,129 tons fewer SO<sub>2</sub> emissions than were expected under the regional haze SIP.

In addition, under the conditions of the currently approved regional haze SIP, Unit 7 of the Waukegan Generation Station would be required to replace its hot-side ESP with a cold-side ESP, install an appropriately designed fabric filter, or permanently shut down by December 31, 2013. Because the variances allow this unit an additional year to install the required equipment, Unit 7 is projected to emit 157 tons of PM in 2014 rather than the 140 tons that was projected with the installation of a cold-side ESP. However, the variances also require the shutdown of Fisk and Crawford, which results in an estimated 1,579 ton reduction in PM emissions in 2014 from what was allowed at these sources under the CPS. Consequently, when taking into account the delay in the installation of a cold-side ESP at Waukegan Unit 7 and the shutdown of Fisk and Crawford, 1,562 fewer tons of PM emissions are expected in 2012 under the variances than were projected under the SIP. Over the entire 2012-2108 time period it is estimated that the variances result in 7,131 fewer tons of PM emissions than were expected under the regional haze SIP.

In addition, while the variances only modify the SO<sub>2</sub> and PM requirements of the regional haze SIP, reductions in emissions of other pollutants can also be attributed to the variances. The April 4, 2013, IPCB order approving the variance notes that over the 2013-2016 time period, the variance will also result in

11,553 tons fewer of NO<sub>x</sub>, 183 pounds fewer of mercury and 22,266 tons fewer of greenhouse gasses.

Because the deadline for implementation of BART level controls is 2017 (within 5 years of approval of Illinois' SIP), EPA also evaluated 2017 emissions under the variance as compared to the 2017 emissions expected under the Illinois regional haze SIP. The variance does not revise the requirements of the Illinois regional haze SIP in 2017 and beyond, except that the current regional haze SIP would have allowed Crawford to operate in 2017 and 2018, thus requiring additional reductions under the variance. Therefore, the determination made in EPA's approval of the Illinois regional haze SIP, that emission reductions from sources included in the Illinois plan are significantly greater than even very conservative definitions of BART applied to BART subject units (77 FR 39945), continues to apply. In addition, for the reasons set forth in EPA's approval of the Illinois regional haze SIP (77 FR 39946) and summarized above, EPA continues to conclude that the significantly greater emission reductions required under the variance will yield greater progress toward visibility protection as compared to the benefits of a conservative estimate of BART.

In evaluating the approvability of the variances, EPA must also consider whether the SIP revision meets the requirements of section 110(1) of the CAA, 42 U.S.C. 7410(1). To be approved, a

SIP revision must not interfere with any applicable requirement concerning attainment, reasonable further progress, or any other applicable requirement of the CAA. Currently, the SIP establishes CPS group average annual SO<sub>2</sub> emissions rates for the Midwest Generation CPS group, beginning in 2013. The SIP allows flexibility in achieving these overall emissions rates, not specifying limits for individual sources. The variances will not result in any increase in SO<sub>2</sub> emissions, but rather result in less SO<sub>2</sub> emissions over the 2012-2018 time period, as well as greater cumulative SO<sub>2</sub> emissions reductions every year throughout this time period.

The SIP does contain control technology requirements at Waukegan Unit 7, specifically the installation of FGD and a cold-side ESP which would be delayed a year under the variances, from December 31, 2013, to December 31, 2014. The Waukegan Generating Station is located in Lake County, which is designated as attainment for both SO<sub>2</sub> and PM<sub>2.5</sub>, and the 12-month delay in the installation of this control equipment would not result in an increase in emissions at the source over current emissions levels. Further, overall SO<sub>2</sub> and PM emissions in 2014 are lower under the variances than under the current SIP. In addition, the variances require the installation of FGD on Unit 6 at the Powerton Generation Station four years earlier than is currently required in the SIP. The Powerton Generation Station is located

in the portion of Tazewell County that is designated nonattainment as part of the Pekin SO<sub>2</sub> nonattainment area. This expedited installation of control equipment will aid in attainment planning for this nonattainment area.

The variances will not result in an increase in SO<sub>2</sub> or PM emissions, but rather will result in lower SO<sub>2</sub> and PM emissions overall and in 2017, the year that BART is required to be implemented in Illinois. In addition, reductions in NO<sub>x</sub>, mercury, and greenhouse gasses can also be attributed to the variances. Therefore, for all of the reasons discussed above, the variances will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

#### **IV. What Action Is EPA Taking?**

EPA is proposing to approve the Midwest Generation variances submitted by IEPA on May 16, 2013, and August 18, 2014, as revisions to the Illinois regional haze SIP.

#### **V. Incorporation by Reference.**

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Illinois Pollution Control Board Order PCB 12-121, effective August 23, 2012 and Illinois Pollution Control Board Order PCB 13-24, effective April 4, 2013. The EPA has made, and will continue to make, these documents



generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

#### **VI. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or

uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by

Executive Order 13175 (65 FR 67249, November 9, 2000).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations,  
Particulate matter, Reporting and recordkeeping requirements,  
Sulfur oxides.

Dated: April 2, 2015.

Susan Hedman,  
Regional Administrator, Region 5.

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